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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
MILORD, MARCEAU	
ART UNIT	**PAPER NUMBER**
2682	

DATE MAILED: 06/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/715,644	BRADFORD J. DOBSON	
	Examiner	Art Unit	
	Marceau Milord	2682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 November 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *17 November 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See In re Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); In re Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1, 10 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No.6650643 B1. Although the conflicting claims are not identical, they are not patentably distinct from each other because the removal of the word dynamic is not non-obvious over the claims of 6650643 B1 and therefore is not patentably distinct from each other.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chang et al (US Patent No 58125260) in view of Yokoyama et al. (US Patent No 6324166 B1) and Soumiya et al. (US Patent No 5583857).

Regarding claim 1, Chang et al discloses a method for handling call set-ups in telecommunications network (figs. 6- 7), comprising: receiving (150 of fig. 6) a request to set up a call (col. 8, lines 1- 30; col. 12, lines 7- 39); comparing (230 and 210 of fig. 7) a first load value for a switch to a load threshold for the switch (col. 8, line 31- col. 9, line 16; col. 12, line 45- col. 13, line 25); and allowing (240 and 270 of fig. 7) the call to be set up (col. 13, line 26- col. 14, line 34; col. 15, line 10- col. 16, line 67).

However, Chang does not specifically disclose the step of allowing the call to be set up when the dynamic load value is less than the load threshold.

On the other hand, Yokoyama et al, from the same field of endeavor, discloses a call setup control apparatus, equipped in an ATM switch with a plurality of buffers for respective priority classes of calls, for providing priority control of calls of a plurality of types with different quality of service requirements. The call setup control apparatus calculates a required bandwidth for satisfying QoS requirements with respect to calls under priority control by using an effective bandwidth method. Furthermore, Yokoyama shows in figure 7, a connection control apparatus 15 which has a connection control unit 16, a routing control unit 17 for executing typical traffic control, a control parameter tables 18, and a call admission control unit 19 for evaluating whether a fresh call is admitted or not by using the control parameter tables 18 (figs. 9- 11; col. 1, line 40- col. 2, line 54; col. 7, line 19- col. 8, line 60). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the call setup apparatus of Yokoyama to the communication network of Chang in order to allow a calling party to make a relatively quick decision as to how to proceed if the call is denied.

Also not specifically disclosed by Chang is the step of comparing a second load value to the load threshold in response to the first load value being greater than or equal to the load threshold.

However, Soumiya et al teaches the steps of calculating the bandwidth necessary for all the calls having a fixed-speed traffic property; comparing the sum of the calculated sum of the required bandwidths for all traffic classes and the bandwidth necessary for all calls having a fixed-speed traffic property, with the physical bandwidth of the transmission line, and accepting the call when the sum is smaller than the physical bandwidth, while rejecting the call when the sum is larger than the physical bandwidth (figs. 1-2, , figs. 19-21; col. 7, lines 19-63; col.. 9, line

7- col. 12, line 28). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the technique of Soumiya to the modified system of Yokoyama and Chang in order to allow a calling party to make a relatively quick decision as to how to proceed if the call is denied.

Regarding claim 2, Chang et al as modified discloses a method for handling call set-ups in a telecommunications network (figs. 6- 7) wherein the first load value comprises a current load value (col. 8, lines 15- 65; col. 13, line 1- col. 14, line 34).

Claims 3-4 contain similar limitations addressed in claim 1, and therefore, are rejected under a similar rationale.

Regarding claims 5-7, Chang et al discloses a method for handling call set-ups in telecommunications network (figs. 6- 7), comprising: receiving (150 of fig. 6) a request to set up a call (col. 8, lines 1- 30; col. 12, lines 7- 39); comparing (230 and 210 of fig. 7) a first load value for a switch to a first load threshold for the switch (col. 8, line 31- col. 9, line 16; col. 12, line 45- col. 13, line 25; 240 and 270 of fig. 7; col. 13, line 26- col. 14, line 34; col. 15, line 10- col. 16, line 67).

However, Chang does not specifically disclose the step of allowing the call to be set up when the dynamic load value is less than the load threshold.

On the other hand, Yokoyama et al, from the same field of endeavor, discloses a call setup control apparatus, equipped in an ATM switch with a plurality of buffers for respective priority classes of calls, for providing priority control of calls of a plurality of types with different quality of service requirements. The call setup control apparatus calculates a required bandwidth for satisfying QoS requirements with respect to calls under priority control by using

an effective bandwidth method. Furthermore, Yokoyama shows in figure 7, a connection control apparatus 15 which has a connection control unit 16, a routing control unit 17 for executing typical traffic control, a control parameter tables 18, and a call admission control unit 19 for evaluating whether a fresh call is admitted or not by using the control parameter tables 18 (figs. 9- 11; col. 1, line 40- col. 2, line 54; col. 7, line 19- col. 8, line 60). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the call setup apparatus of Yokoyama to the communication network of Chang in order to allow a calling party to make a relatively quick decision as to how to proceed if the call is denied.

Also not specifically disclosed by Chang is the step of comparing a second load value to the load threshold in response to the first load value being greater than or equal to the first load threshold.

However, Soumiya et al teaches the steps of calculating the bandwidth necessary for all the calls having a fixed-speed traffic property; comparing the sum of the calculated sum of the required bandwidths for all traffic classes and the bandwidth necessary for all calls having a fixed-speed traffic property, with the physical bandwidth of the transmission line, and accepting the call when the sum is smaller than the physical bandwidth, while rejecting the call when the sum is larger than the physical bandwidth (figs. 1-2, , figs. 19-21; col. 7, lines 19-63; col.. 9, line 7- col. 12, line 28). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the technique of Soumiya to the modified system of Yokoyama and Chang in order to allow a calling party to make a relatively quick decision as to how to proceed if the call is denied.

Regarding claims 8-9, Chang et al discloses a method for handling traffic based on dynamic data for a switch (figs. 6- 7), comprising: determining a first dynamic load for a switch processor; determining a second dynamic load for a switch processor (col. 8, lines 1- 30; col. 12, lines 7- 39); comparing (230 and 210 of fig. 7) the first dynamic load to a threshold; comparing the second dynamic load to a second threshold (col. 8, line 31- col. 9, line 16; col. 12, line 45- col. 13, line 25; col. 13, line 26- col. 14, line 34; col. 15, line 10- col. 16, line 67).

However, Chang does not specifically disclose the step of performing queue management for the switch processor based on the results of the comparisons; wherein the first threshold and the second threshold comprise a same threshold.

On the other hand, Yokoyama et al, from the same field of endeavor, discloses a call setup control apparatus, equipped in an ATM switch with a plurality of buffers for respective priority classes of calls, for providing priority control of calls of a plurality of types with different quality of service requirements. The call setup control apparatus calculates a required bandwidth for satisfying QoS requirements with respect to calls under priority control by using an effective bandwidth method. Furthermore, Yokoyama shows in figure 7, a connection control apparatus 15 which has a connection control unit 16, a routing control unit 17 for executing typical traffic control, a control parameter tables 18, and a call admission control unit 19 for evaluating whether a fresh call is admitted or not by using the control parameter tables 18 (figs. 9- 11; col. 1, line 40- col. 2, line 54; col. 7, line 19- col. 8, line 60). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the call setup apparatus of Yokoyama to the communication network of Chang in order to allow a calling party to make a relatively quick decision as to how to proceed if the call is denied.

Soumiya et al teaches the steps of calculating the bandwidth necessary for all the calls having a fixed-speed traffic property; comparing the sum of the calculated sum of the required bandwidths for all traffic classes and the bandwidth necessary for all calls having a fixed-speed traffic property, with the physical bandwidth of the transmission line, and accepting the call when the sum is smaller than the physical bandwidth, while rejecting the call when the sum is larger than the physical bandwidth (figs. 1-2, , figs. 19-21; col. 7, lines 19-63; col.. 9, line 7- col. 12, line 28). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the technique of Soumiya to the modified system of Yokoyama and Chang in order to allow a calling party to make a relatively quick decision as to how to proceed if the call is denied.

Regarding claim 11, Chang et al as applied to claim 10 above differs from claim 11 in that Chang fails to teach the step of performing the load calculator task comprising incrementing a counter.

However, Yokoyama et al discloses a call setup control apparatus, equipped in an ATM switch with a plurality of buffers for respective priority classes of calls, for providing priority control of calls of a plurality of types with different quality of service requirements. The call setup control apparatus calculates a required bandwidth for satisfying QoS requirements with respect to calls under priority control by using an effective bandwidth method. In addition, Yokoyama shows in figure 10, a call admission control which is done in such a way that a fresh call is accepted if the number of calls in progress is less than or equal to the designed maximum number otherwise the fresh cal is rejected (figs. 9- 11; col. 1, line 40- col. 2, line 54; col. 7, line 19- col. 8, line 60). Therefore, it would have been obvious to one of ordinary skill in the art at the

time the invention was made to apply the call setup apparatus of Yokoyama to the communication network of Chang in order to allow a calling party to make a relatively quick decision as to how to proceed if the call is denied.

Regarding claims 10, 14-16, Chang et al discloses a system for handling call set-ups in a telecommunications network (figs. 6- 7), comprising: a load calculator (150 of figs. 6- 7) operable to perform a load calculator task (col. 12, lines 1- 39); a load integrator (210 and 250 of fig. 7; col. 13, line 1- col. 14, line 15) operable to calculate and store (110 and 120 of fig. 6) a current load value associated with a processor and operable to calculate and store an average load value associated with the processor (col. 8, lines 8- 65; col. 12, lines 45- 64); and a call rejection module (figs. 13-16;col. 9, lines 2- 16; col. 21, line 20- col. 22, line 13).

However, Chang does not specifically disclose the step of rejecting a request to set up a call based on the current load value and a load threshold.

On the other hand, Yokoyama et al, from the same field of endeavor, discloses a call setup control apparatus, equipped in an ATM switch with a plurality of buffers for respective priority classes of calls, for providing priority control of calls of a plurality of types with different quality of service requirements. The call setup control apparatus calculates a required bandwidth for satisfying QoS requirements with respect to calls under priority control by using an effective bandwidth method. Furthermore, Yokoyama shows in figure 7 a connection control apparatus 15 which has a connection control unit 16, a routing control unit 17 for executing typical traffic control, a control parameter tables 18, and a call admission control unit 19 for evaluating whether a fresh call is admitted or not by using the control parameter tables 18 (figs. 9- 11; col. 1, line 40- col. 2, line 54; col. 7, line 19- col. 8, line 60). Therefore, it would have

been obvious to one of ordinary skill in the art at the time the invention was made to apply the call setup apparatus of Yokoyama to the communication network of C hang in order to allow a calling party to make a relatively quick decision as to how to proceed if the call is denied.

Soumiya et al teaches the steps of calculating the bandwidth necessary for all the calls having a fixed-speed traffic property; comparing the sum of the calculated sum of the required bandwidths for all traffic classes and the bandwidth necessary for all calls having a fixed-speed traffic property, with the physical bandwidth of the transmission line, and accepting the call when the sum is smaller than the physical bandwidth, while rejecting the call when the sum is larger than the physical bandwidth (figs. 1-2, , figs. 19-21; col. 7, lines 19-63; col.. 9, line 7- col. 12, line 28). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the technique of Soumiya to the modified system of Yokoyama and Chang in order to allow a calling party to make a relatively quick decision as to how to proceed if the call is denied.

Regarding claim 12, Chang et al as modified discloses a system for handling call set-ups in a telecommunications network (figs. 6- 7) the load integrator (210 and 250 of fig. 7) operable to calculate a current load value based on a result from the load calculator and an optimal load (col. 13, line 1- col. 14, line 15).

Regarding claim 13, Chang et al as modified discloses a system for handling call set-ups in a telecommunications network (figs. 6- 7) the load integrator (210 and 250 of fig. 7) further operable to store (110 and 120 of fig. 6) a plurality of load values and operable to calculate an average load value based on the current load value and a specified number of the plurality of load values (col. 8, lines 8- 65; col. 12, lines 45- 64).

Regarding claim 17, Chang discloses an asynchronous transfer mode switch (figs. 6- 7), comprising: a plurality of line cards, each line card operable to receive a request to set up a call (col. 12, lines 7- 39; col. 12, line 45- col. 14, line 15; col. 21, line 20- col. 22, line 13).

However, Chang does not specifically disclose the feature of a processing card operable to reject the request to set up the call based on a current load value associated with a processor, a load threshold, associated with the processor, and an average load value associated with the processor.

On the other hand, Yokoyama et al, from the same field of endeavor, discloses a call setup control apparatus, equipped in an ATM switch with a plurality of buffers for respective priority classes of calls, for providing priority control of calls of a plurality of types with different quality of service requirements. The call setup control apparatus calculates a required bandwidth for satisfying QoS requirements with respect to calls under priority control by using an effective bandwidth method. Furthermore, Yokoyama shows in figure 7 a connection control apparatus 15 which has a connection control unit 16, a routing control unit 17 for executing typical traffic control, a control parameter tables 18, and a call admission control unit 19 for evaluating whether a fresh call is admitted or not by using the control parameter tables 18 (figs. 9- 11; col. 1, line 40- col. 2, line 54; col. 7, line 19- col. 8, line 60). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the call setup apparatus of Yokoyama to the communication network of Chang in order to allow a calling party to make a relatively quick decision as to how to proceed if the call is denied.

Soumiya et al teaches the steps of calculating the bandwidth necessary for all the calls having a fixed-speed traffic property; comparing the sum of the calculated sum of the required

bandwidths for all traffic classes and the bandwidth necessary for all calls having a fixed-speed traffic property, with the physical bandwidth of the transmission line, and accepting the call when the sum is smaller than the physical bandwidth, while rejecting the call when the sum is larger than the physical bandwidth (figs. 1-2, , figs. 19-21; col. 7, lines 19-63; col.. 9, line 7- col. 12, line 28). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the technique of Soumiya to the modified system of Yokoyama and Chang in order to allow a calling party to make a relatively quick decision as to how to proceed if the call is denied.

Regarding claim 18, Chang et al as modified discloses an asynchronous transfer mode switch (figs. 6- 7) wherein the processing card comprises a load calculator operable to perform a Load calculator task and a load integrator operable to calculate and store the current load value based on a result from the load calculator (col. 12, line 45- col. 14, line 15; col. 21, line 20- col. 22, line 13).

Regarding claim 19, Chang et al as modified discloses an asynchronous transfer mode switch (figs. 6- 7) the processing card further operable to reject the request to set up the call based on the average load value and the load threshold (col. 12, line 45- col. 14, line 15; col. 21, line 20- col. 22, line 13).

Regarding claim 20, Chang et al as modified discloses an asynchronous transfer mode switch (figs. 6- 7) wherein the processing card comprises a load calculator operable to perform a load calculator task and a load integrator operable to store a plurality of load values, to calculate and store the current load value based on a result from the load calculator (col. 12, line 45- col.

14, line 15), and operable to calculate the average load value based on the current load value and a specified number of the plurality of load values (col. 8, lines 8- 65; col. 12, lines 45- 64).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marceau Milord whose telephone number is 571-272-7853. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian C. Chin can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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